

Minutes
Joint meeting of the Veneta Planning Commission & Veneta City Council
June 6, 2005

Council
Present: Mayor T. J. Brooker, Darrell Carman (arrived at 7:12 p.m.), Thomas Cotter, and Marion Esty

Planning
Commission: Chairman Jim Bruvold, James Dean, James Eagle-Eye, Len Goodwin, and Lily Rees

Absent: Fred Miller

Staff: Ric Ingham, City Administrator; Margaret Boutell, Community Services Director; Sheryl Hackett, City Recorder; Brian Issa, Planning Assistant; Samantha Haschert, Planning Assistant; Denise Walters, LCOG Planner; Jerry Elliott, City Engineer; Mr. & Mrs. Spiros Coven; Tony Favreau; Mona Linstromberg; Carol & Norman Welch; Doug DuPriest; Ron & Sharon Faust; Mark Holman; Alisa Johnson; and Kay Larson

Chairman Jim Bruvold called the Veneta Planning Commission to order at 7:01 p.m.

I. REVIEW AGENDA

Chairman Jim Bruvold reviewed the agenda for the Planning Commission and public. He said that during the public hearings he will be giving the Planning Commission and Council an opportunity to ask questions following the staff report. After that he will open the hearings for public testimony.

II. PUBLIC COMMENT: None

III. APPROVAL OF MINUTES:

Marion Esty pointed out several typographical errors in the minutes for May 11, 2005 as to who was present and who was absent. The minutes for May 11, 2005 should list Fred Miller as present and Darrell Carman as absent.

MOTION: James Dean made a motion to approve the minutes for May 2, 2005; Pages 1-3 of the May 11, 2005 Joint Meeting with the City Council as amended; and the minutes for the May 26, 2005 site visit of the Coven property. Len Goodwin seconded the motion which passed with a vote of 5-0.

IV. JOINT PUBLIC HEARING: Veneta City Council & Veneta Planning Commission

A. Call Veneta City Council to Order: Mayor Brooker called the City Council to order at 7:05 p.m.

B. COVEN ESTATES 2 - (V-3-05) Variance to Veneta's Wetland Protection Ordinance (Veneta Municipal Code Chapter 18.10) to allow development within a delineated wetlands. Assessors map 18-05-06-20, tax lot 420

1. Open Hearing: Chairman Jim Bruvold opened the public hearing at 7:06 p.m.
2. Declaration of Conflict of Interest or Ex-Parte Contacts: Lily Rees declared conflict and excused herself from the Planning Commission. Mayor Brooker & Marion Esty declared ex-parte contact that resulted from their attending the on-site visit May 26, 2005. Thomas Cotter declared ex-parte contact, stating that he made an independent site visit. Chairman Jim Bruvold declared an ex-parte contact with Mr. Coven immediately following the on-site visit on May 26, 2005. He said he asked Mr. Coven about the permit for the US Corp of Engineers.
3. Staff Report (Denise Walters)
Denise Walters summarized the staff report for those present. She said the request before the Veneta City Council and Planning Commission is for a variance to allow the extension of Cherry Lane and associated public utilities across a locally significant wetland to allow lot 9 of the Coven Estates Subdivision to be subdivided into six lots ranging in size from 9,918 square feet to 28,138 square feet.

Lot 9 is located at the east end of Cherry Lane and can be served by City water and sewer. The Veneta Comprehensive Plan Wetlands Map shows significant wetlands traversing the site in a northeast direction. Denise summarized from the staff report the wetland potential and the impact the proposed development will have. The property is located within the City's Greenway subzone and the applicant has submitted a request for a Conditional Use Permit and tentative subdivision which will be subject to review by the Veneta Planning Commission later in the meeting.

Darrell Carman arrived at 7:12 p.m. and stated for the record that he has no conflict of interest or ex-parte contact.

Denise reviewed the issues listed in the staff report which include stormwater conveyance, stormwater quality, natural resources which include wetlands and riparian habitat, transportation system needs which include the possible extension of Cherry Lane and possible bicycle/pedestrian pathways. The agency comments were included in the staff report that has been submitted to the City Council and Planning Commission and made available for public review.

At the request of the Planning Commission at the last public hearing, the Oregon Department of Fish and Wildlife submitted a letter dated May 28, 2005 which addressed some of the natural resources issues. The letter was read into the record by Denise Walters and entered into the permanent planning file for variance V-3-05.

Denise said the Cherry Lane extension is necessary to serve the transportation needs of the subdivision, provides emergency access, allows for property fire hydrant spacing, allows for future development of property to the south without requiring additional impacts to wetlands, and will eventually provide connection to Perkins Road.

The City Engineer has proposed requiring a bicycle or pedestrian connection to the north as a way of providing limited connectivity to Ponderosa Drive.

Denise said staff recommends conditional approval of the variance. The staff report includes alternative designs. She said the east side of town is very constrained by wetlands and the only connectivity to the south at this time is via Oak Island Drive and Erdman Way. She said the Veneta Transportation System Plan required the extension of Ponderosa to Cherry Lane; however, the City determined that crossing the wetlands along the north boundary of lot 9 was not desirable.

Denise stated the public need for Cherry Lane is street connectivity required by the TSP, access for emergency vehicles, fire hydrant spacing, minimized energy consumption, minimized air, water and noise pollution, connected utility system, provides a sewer system which requires standard maintenance, and meets growth management need by making the best use of buildable land within the current public utility service area. The potential adverse impacts include erosion, degradation of water quality through sedimentation of the drainage channel, degradation of habitat, flooding, possible channel incising. Staff found that some of the potential adverse impacts would be temporary and could be mitigated through conditions of approval.

Denise summarized the proposed conditions of approval which include reducing the number of lots and imposing a 20' setback from the main drainage channel. Many of the conditions of approval were designed to protect the wetlands on the entire site. The applicant submitted concerns related to the conditions of approval for reducing the number of lots and the setbacks.

Questions from the City Council and Planning Commission:

In response to a question from Jim Bruvold, Denise said the property to the south has the potential for 9 to 20 lots on the north side of the wetlands that could be accessed from the applicant's property.

James Eagle-Eye said it appears that if more fill is added for the culvert under the road, it will raise the level of the property and the backyards to the west will be significantly lower. In response, Jerry Elliott said they modeled the stream and the culvert would not fill up all the way in a ten-year storm. He said because of how the channel is configured, it breaks and flows more to the east. He said the stream capacity is significantly increased east of this development.

In response to a question as to why staff recommended a 20' setback when the Oregon Fish and Wildlife Department (OFWD) recommended 25', Denise said staff also recommended a bio-swale which would provide an additional 5' or more to the setback.

In response to a question from Mayor Brooker, Denise said the setback recommended by staff is larger than the building envelopes and setbacks shown on the applicant's proposal. Staff also recommended combining some of the lots so the setback can be increased.

In response to a question from James Dean, Denise said OFWD differentiates between rural and urban developments. In a rural area they would recommend a larger setback than in the urban area.

In response to a question from James Dean about whether or not the wetlands can be saved, Denise said once a wetlands is disturbed it is difficult to get it to function as well. She said the purpose of requiring a setback is to preserve the natural areas.

In response to a question about the possibility of the creek cutting into the bank, Planning Assistant Brian Issa explained that normally a creek will spread out. When it is channelized, all the energy is directed to the channel which causes it to cut away at the banks. Jerry Elliott said the developer will be required to submit improvement plans that include an evaluation of the storm water. By not adding more water to the peak flow it will not add energy. With proper planning it will not make the situation worse or better.

In response to a question, Margaret said the City has an easement which

allows access to the wetlands so it can be monitored

Mayor Brooker said he would want conditions that protect the wetlands during the construction phase, such as large temporary buffers around the construction area.

In response to a question from Len Goodwin about what happens after the five year monitoring period by the Corp of Engineers, Denise said covenants will be required and the wetlands will be posted. Beyond that, it becomes an enforcement issue.

In response to a question from James Eagle-Eye, Jerry Elliott said the volume of water at peak flow cannot be increased; however, it can be at peak flow for a longer period of time. He said more water results in more energy so there is some potential for erosion. He said they should keep in mind that there is an existing channel and the setbacks will result in minimal encroachment into it.

At 7:59 p.m. Chairman Jim Bruvold called for a five minute recess to allow the public to sign-in before beginning public testimony. He called the meeting back to order at 8:05 p.m.

4. Public Testimony

Chairman Jim Bruvold advised the public they will be given three minutes to speak either in favor or against the applicant's request.

Spiros Coven; 25200 Cheney Drive; Veneta, OR

Mr. Coven said he will not be able to do the subdivision if he has to reduce the number of lots as recommended by staff. The Division of Lands (DSL) does not require a permit. He said the OFWD generally reports to DSL, not to the City. He said because DSL has approved his project, the ODFW should not be able to change that.

Tony Favreau; 3712 Norwich Avenue; Eugene, OR

Mr. Favreau said he is the civil engineer for the project. On behalf of the applicant he submitted a letter stating some concerns. He said he has not seen the letter from ODFW but Mr. Coven is right, their criteria is not required by City code. He said the wetland strip is only 8' wide and it is unreasonable to have a 20' buffer with bioswales outside the buffer. He said they have already satisfied the DSL and they are in the process of obtaining a permit from the Corp of Engineers. He said he hopes the City considers the facts in this case.

Anthony Clemens; 25156 Cherry Lane; Veneta, OR

Mr. Clemens said he was happy to hear that reducing the lots to four will stop the project. He said he participated in the site visit and saw a lot of illegal fill that destroyed the wetlands. He said the illegal fill killed one of the large trees. He said the City does not maintain the easements it already has. He said in the Greenway the restoration work should have been for an areas twice the size of what was disturbed. He said the City ordinances have penalties for destroying wetlands but it is never enforced. He said the wetlands should be restored before any building is allowed to take place.

Mona Linstromberg; 87140 Territorial Road; Veneta, OR

Ms. Linstromberg said she wanted to respond to the comments from the applicant and his engineer about the permits they have applied for through the Division of State Lands and Corp of Engineers. She said those agencies play an important role; however, the City has its own criteria that must be met to develop in a wetlands. She said she feels the staff recommendation is better than what the applicant has proposed; however, she asked for the record for variance V-3-05 to be kept open for seven days. She said staff's finding that the extension of Cherry Lane will provide access to develop property to the south without an additional wetland crossing is not consistent with the finding that the Cherry Lane extension will provide potential access to Perkins Road. She said for Cherry Lane to connect to Perkins Road there will need to be another wetland crossing. She said the staff report talks a lot about public need; however it says little about the adverse impact of placing a 24" culvert diagonally through the wetlands. She said the City has required open boxed culverts in other subdivisions to provide a better environment for wildlife and to improve water quality. If the City decides to approve the wetland variance, she asked that a bridge or open bottom culvert is required.

Norman Welch; 25181 Cherry Lane Veneta, OR

Mr. Welch said he has lived next to lot 9 of the Coven Subdivision for 20 years and he has seen standing water on proposed lots 9 and 10 many times. He said lot 11 is even lower. He said their concern is the runoff from the new culverts under Cherry Lane. He said the ditch still has about a 1 ½ rise downstream that inhibits the flow of water through the Oak Island culverts. Last Saturday he measured 1" of water downstream near Ponderosa Drive and 14" of water upstream next to his property. He said Oak Island floods during the winter and that is his concern.

Lily Rees; 87763 Oak Island Drive; Veneta, OR

Lily Rees said she is also concerned about the water level. She entered a photograph into the record that was taken after the new wing walls were constructed in front of her house on Cherry Lane. The photo shows water near the foundation of her house which she said accumulated after a four hour storm. She said the City has been telling her for two years that they will take care of the hump in the creek that causes the water to back up. She said that has not been done and a sewer line has now been extended into the creek bed which could impede the flow of water. She said the standing water has also created a breeding ground for mosquitos.

Doug DuPriest; 777 High Street #200; Eugene, OR 97402

Doug DuPriest said he represents Lily Rees and Mark Holman. He said the staff report focuses heavily on transportation as public need; however, the Veneta Comprehensive Plan establishes the public need for the applicant's property as an open space greenway area that should remain undeveloped with no conversion to urban uses. He said the Comprehensive Plan trumps any other plans. He said the applicant still has some economic benefit because the lot can still be developed with a house. He said staff talked a lot about downstream impacts but not about what will happen upstream as a result of the fill. He said the conditions of approval do not protect the upstream properties.

Ron Faust; 25175 Cherry Lane; Veneta, OR

Mr. Faust said there has been no provision to manage the water that will be displaced by the fill. He said he is concerned that the fill will remove the holding capacity of the property and cause problems for upstream properties.

Sharon Faust; 25175 Cherry Lane; Veneta, OR

Mrs. Faust asked if the City has hired a hydrologist to examine the water issues in the entire community. She said she is concerned that the City is going to have some serious flooding problems as a result of the recent developments. She said in the past Oak Island has flooded from curb to curb with the overflow going onto the Coven property. She said no improvements have been proposed downstream where the culverts under E. Bolton are too small and the water flows over the road. She said it isn't fair to jeopardize five existing homes to build four new homes. She said water percolates up through the ground and in the past they have had to pump it out from under their house. She said the developer should have obtained all of his permits before doing any work on his property.

Mark Holman; 87763 Oak Island Drive; Veneta, OR

Mr. Holman said the street will cross the most southern finger of wetlands at the east end of Cherry Lane. He said that wetlands has traditionally taken water from his property. If the east end of Cherry Lane is filled there will be no place for the water to drain and it will cause more flooding. He said the wetlands is where the original drainage channel was located but it has since been destroyed by illegal fill and not restored properly to allow the water to run downstream.

Alisa Johnson; 87783 Ponderosa Drive; Veneta, OR

Ms. Johnson said she has only lived next to the Coven property for a year and has not yet experienced any flooding. She said she is concerned because the drainage ditch on the Coven property flows directly against her property. She said she has received letters from the City telling her she needs to plant native plants. She said if she doesn't know what she is supposed to plant or how to maintain it, how will future home owners know.

5. Questions from the Veneta City Council and Planning Commission

Len Goodwin said there has been a request to keep the record open for 7 days; therefore, they cannot conclude their deliberations.

6. Close of Public Hearing: Chairman Jim Bruvold closed the public hearing at 8:37 p.m. He advised the public that the record will be held open for 7 days.

Chairman Jim Bruvold closed the public hearing at 8:37 p.m.

7. Deliberation and Decision:

Chairman Jim Bruvold said a decision will not be made tonight as there has been a request to hold the record open 7 day.

In response to a question from Len Goodwin, Denise Walters agreed the condition of approval to reduce the number of lots was relevant to the subdivision and not to the wetland variance request. The setback requirement for the street and utility crossing would be applicable.

In response to a request by James Dean for clarification on the role the ODFW has, Denise Walters said the City relies a lot on state and federal agencies for their expertise in evaluating natural resources. She said DSL did not require a permit because less than 50 cubic yards of fill will be removed; therefore, ODFW did not have an opportunity to comment. She

said more information was requested at the last meeting. The ODFW letter was in response to that request.

In response to a question, Denise Walters said the Planning Commission can take action later in the meeting on the applicant's other applications associated with the tentative subdivision plan; however, there will need to be conditions of approval that require approval of the wetland variance.

Mayor Brooker said the public need is mostly related to street connectivity. If the applicant's property remains undeveloped, the City will need to resolve the issue of connectivity from Cherry Lane to Perkins Road.

James Eagle-Eye said if the variance is approved and the street is stubbed out on the south, there is no guarantee it will connect to Perkins Road because it would require another variance to cross the wetlands to the south. In response, Denise said the street only provides the potential for future connectivity.

MOTION: Len Goodwin made a motion to continue their deliberations on the Coven request for a wetland variance until the July 5, 2005 Planning Commission meeting. James Dean seconded the motion which passed with a unanimous vote of 9-0.

Denise Walters said to conform to the 120-day rule the Planning Commission will need to make a decision on the related applications scheduled next on the agenda, unless the rule is waived by the applicant.

- C. Adjourn City Council: Mayor Brooker adjourned the Veneta City Council at 8:50 p.m.

V. PUBLIC HEARING & LIMITED LAND USE ACTIONS:

COVEN ESTATES 2 - Tentative Subdivision Plan (S-1-05), Conditional Use Permit to allow development within the Greenway Subzone (CUP-4-05) and Variance to allow panhandle lots (V-2-05) - East end of Cherry Street.

Assessors map 18-05-06-20, tax lot 420

1. Open Hearing: Chairman Jim Bruvold opened the public hearing at 9:00 p.m.
2. Declaration of Conflicts of Interest or Ex-Parte Contacts: Lily Rees declared conflict and excused herself from the Planning Commission. Chairman Jim Bruvold declared an ex-parte contact with Mr. Coven immediately following the

MOTION: James Dean made a motion to approve the extension of the tentative plan for the Veneta Business Park Subdivision. Len Goodwin seconded the motion which passed with a vote of 5-0.

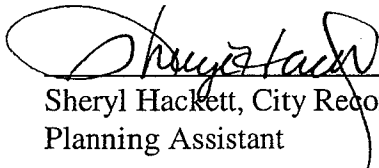
- B. Administrative Decisions
Margaret Boutell told the Planning Commission staff has made two administrative decisions this past month, a property line adjustment which cleared the way for the Austin Acres Subdivision and a temporary use permit to allow a plant stand to be operated at the corner of Hwy 126 and Territorial Road.
- C. The Planning Commission was reminded that the Region 2050 Open House scheduled for June 9, 2005 will begin at 5:30
- D. Veneta Planning Assistant Samantha Haschert will be making a presentation on her Veneta Design standard project at the June 27, 2005 Veneta City Council meeting guide or recommendation for design standard for downtown Veneta. Her presentation will begin before the regularly scheduled 7:00 meeting.

IX. ADJOURN:

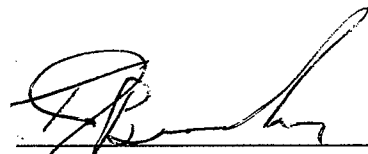
Chairman Jim Bruvold adjourned the Planning Commission at 11:44 p.m.


Chairman Jim Bruvold

ATTEST:


Sheryl Hackett, City Recorder/
Planning Assistant

Approval of Pages 1-9 (Joint Public Hearing)


T. J. Brooker, Mayor

ATTEST:


Sheryl Hackett, City Recorder/
Planning Assistant